

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JAMES VAN KIRK,**

**Appellant,**

**v.**

**BURNS & McDONNELL ENGINEERING COMPANY, INC., et al.,**

**Respondents.**

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**DOCKET NUMBER WD78577**

**Date: March 22, 2016**

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**Appeal from:**

Jackson County Circuit Court

The Honorable Marco A. Roldan, Judge

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**Appellate Judges:**

Division One: Lisa White Hardwick, Presiding Judge, Victor C. Howard and Gary D. Witt, Judges

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**Attorneys:**

Edward E. Keenan and Sonal Bhatia Kansas City, MO for appellant.

Paul D. Seyferth, and Deena B. Jenab, Kansas City, MO for respondents.

# **MISSOURI APPELLATE COURT OPINION SUMMARY**

## **COURT OF APPEALS -- WESTERN DISTRICT**

**JAMES VAN KIRK**

**Appellant,**

**v.**

**BURNS & McDONNELL ENGINEERING COMPANY, INC., et al.,**

**Respondents.**

**WD78577**

**Jackson County**

Before Division One: Lisa White Hardwick, Presiding Judge, Victor C. Howard and Gary D. Witt, Judges

James Van Kirk appeals the circuit court's judgment dismissing his wrongful discharge petition against his former employer, Burns & McDonnell Engineering Company, Inc. and its affiliates, for failure to state a claim upon which relief could be granted. Van Kirk contends his petition adequately states two claims that he was wrongfully discharged for whistleblowing.

**REVERSED AND REMANDED.**

Division One holds:

(1) Count I of Van Kirk's petition states a claim for wrongful discharge in violation of public policy based upon his whistleblowing about the unauthorized practice of engineering that he witnessed on the Frontier Boiler Project. The petition sufficiently alleges that Burns & McDonnell violated Missouri engineering regulations and the public policy mandate reflected in those regulations by allowing

the unauthorized practice of engineering, that Van Kirk reported those violations to his supervisors, and that he was fired because of that reporting.

(2) Count II of Van Kirk's petition states a claim for wrongful discharge in violation of public policy based upon his whistleblowing about the unsafe hoisting and moving of the boiler on the Frontier Boiler Project. The petition sufficiently alleges that Burns & McDonnell violated the Missouri engineering regulation requiring licensed engineers to report their safety concerns to their employers and the public policy mandate reflected in that regulation by firing Van Kirk for making such a report.

Opinion by: Lisa White Hardwick, Judge

**March 22, 2016**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**